Previous references.

190

( )

File No. 64/903-07

Serial Nos. 1-98

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–9

Part B. for

SUBJECT.

Notice to file a suit against the Govt. of Guyana from Leg Mr Hayes on behalf of his client Hatte Ranganna for damages to be claimed by his client on account of certain alleged wrongful orders of the Sub Judge of Guyana & Notice to be taken by the Chief Court also of the conduct of Mr Hayes for leaving Guyana without notice to Govt. without any ground whatever

Memo to Mr Hayes Solicitor Georgetown

Memo to notice to file a suit against the Govt of Guyana on behalf of his client Hatte Ranganna.

Memo to Registrar, Sch. Court to call for records

Memo to Govt to execute

Memo to copy of notice given by Mr Hayes & request to report whether there is a valid cause of action against Govt.

G. R. S. 58

Memo to certain records.

Office of the Dewan of Mysore.

File No. (if any)

Directions.

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

Branch Judicial

Subject Notice of intention to file a suit against The Govt of Mysore, given by Mr Hayes Bar-at-Law. on behalf of his client Hotte Rangamma

---

The Dewan's remarks on the notice:—

"What has the Government of Mysore to do with this matter. I see no cause of action & even any connection disclosed against Government. Perhaps the Government Advocate may be asked to ascertain. Meanwhile the Deputy Secretary will see this and let me have any light which he may throw upon the case"

(Sd) P.N.K.
18-4-04

Glaudius.

The orders of the Sub Judge, referred to in the notice, [viz. so much of the decree as held that the decreed amount could be recovered by sale

the property mortgaged by Hotte Ramgoma and the order directing the sale thereof in execution of the decree, were no doubt erroneous. But they were not passed by the Sub Judge without jurisdiction, or otherwise than in good faith and in the discharge of his judicial office. No suit therefore will lie against him. [There is a special Act Act, no XVIII of 1850, in force in British India, "for the protection of Judicial Officers" &c; we have not got it here, but I have no doubt that the same principles will be applied by our Courts. The opportunity might be taken, when we next consolidate & revise the Civil Courts & Chief Courts Regulation, to introduce a section on the same lines, & also (though a matter of minor relevance) to insert a provision empowering Commissioners appt'd by Govt (as in the Demands Act) to exercise certain judicial functions in regard to enforcing attendance of witnesses.]

In the next place, as observed by the Decree, there is no connection or cause of action made out as against Govt.

In the third place, the Govt of Mysore is not liable, under the Law of Mysore, to be sued in the Courts of the State, all provisions contained in chapter XXVII of the Code of Civil Procedure in regard to suits against Government having

been deliberately struck out when the Code was introduced by Regn II of 1884.

Hotte Nanganna's remedy is by way of suit against Chikk Devaraja Urs for recovery of the property which was purchased by the latter in execution.

No action in reply, with reference to the notice received from Mr Hayes seems necessary at this stage.

The Court Advocate has been asked to furnish the grounds & as well as the grounds of defence which may be urged in case a suit is filed.

Secy

22/4/04

Submitted to the Dewan through the 1st Mr Ell 27/4/04

I am of the same opinion -

Another Point is that Hotte Nanganna who was a party to the suit does not seem to have objected & it is not clear why the Decree should not be binding on him as the Decree was in favour

a receipt he did not ask for —

27 " 04

27/4/04

When
~~attach~~ the opinion of the
Govt Advocate is received would
consider the further
steps to be taken whether
an extension of Mr Hayes' stand
& experience can act
as arbitrator as he
has done in this case
by giving a notice without
any ~~Costs~~ Grounds and possibly
any unwise sentiment.

Noted
5.V.04

Recd from Valuation
27/5/04

Letter No
209 d
19-5-04

The Government Advocate states that in his opinion there is no valid cause of action either against the Govt or the Subordinate Judge of Mysore and that the suit if filed will not be sustain-able.

He further states that the written

Statement can be prepared only after the suit is filed.

Submitted for orders

21/5/04 Jo Deuten.

21.5.04

17860
21.V.04.

17860

Forward send me [illegible] and call his attention to the quite un-called for remark which Mr Hughes has given out without any ground whatever.

Please submit a draft D.O.

22.V.04

21/5/04

A draft D.O. as required & submitted

17914
24.V.04.

Jo Deuten

24.5.04

19445

Please see C.P.'s D.O. letter awaiting further orders

Jo Dy. Secy. 18.VI.04

21.6.1904

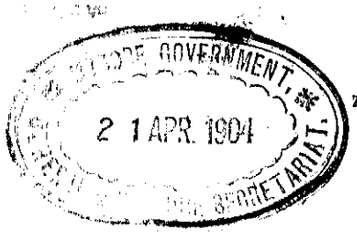
File in the present

17 6/7

J. 162

Registered for Acknowledgment

Chambers No. 2 Union Street
Civil and Military Station
Bangalore 15th April 1904



From

[redacted] Esquire
BARRISTER AT LAW

To

Sir P. N. Krishna Murti B.L., K.C.I.E
Dewan of Mysore
Bangalore

Sir,

In re (1) O.S. No. 24 of 1900-1901.
on the file of the Court of the
Subordinate Judge of Mysore.

" (2) Execution Case No. 490 of 1901-1902
on the file of the Court of the
Subordinate Judge of Mysore.

" (3) Mis. No. 158 of 1902-1903
on the file of the Court of the
Subordinate Judge of Mysore.

" (1) Regular Appeal No. 176 of 1901-1902
on the file of the
Chief Court of Mysore.

Chik Dasaya Ulsr. Plaintiff
— versus —
1. Sri Lakshmi Narayanaswamy Company Limited, by its Agent Putta Subaraya Chetty.
2. Sawagira Sosayi, by his Sister and Agent Parvathamma Nanda-Gira Gosayi
3. Hotte Rungannah
4. Boganna,
5. Ranganna
6. Karianna
7. Nabba Defendants.

Hotte Rungannah, son of Chik Mullannah, residing in the Attara Kachari in the City of Mysore — Plaintiff

— versus —

The Government of Mysore, by the Dewan of Mysore (Sir P. N. Krishna Murti B.L., K.C.I.E) — Defendant.

I am instructed by my client, Hotte Rungannah above-named, to give you notice, which I hereby do, that, agreeably to the provisions of Section 424 of the Code of Civil Procedure, a suit will be filed on his behalf in the Court of the District Judge of Mysore against the Government of Mysore for the reliefs as hereinafter set forth, two months after the receipt of this notice by you—

The following paragraphs contain the grounds upon which the said suit will chiefly be based:—

1. That the Plaintiff did, in the City of Mysore, on the 25th day of June 1896, borrow and receive from the Sri Lakshmi Narayanaswamy Company Limited the sum of Rs 6000/- on the mortgage of his Bungalow (hereinafter more fully and particularly described) and did on the said date execute a Deed of Mortgage therefor—

That the said Sri Lakshmi Narayanaswamy Company Limited duly by its Agent Putta Subaraya Chetty, on the 12th day of September 1897 pledged the said Deed of Mortgage (referred to in Paragraph 1 above) together with another Deed of Mortgage as security for the sum of Rs 6000/-, borrowed and received from one Sawagira Gosayi, in whose favour a Deed of Hypothecation was executed on the same date by the said Company—

That subsequently the said Lawagire Gaya, died, on the 28th. day of February 190, assign the said Deed of Mortgage (referred to in Paragraph I above) to one Chik Devaraya Urs, in whose favor a Deed of Assignment was on the said date duly executed and granted by the said Putta Subaraya Chetty as the Agent, and on behalf of the Sri Narayana Swamy Company Limited, for good and valuable consideration.

That the said Chik Devaraya Urs did thereupon institute a suit in the Court of the Subordinate Judge of Mysore on the said Deed of Assignment (referred to in the last preceding paragraph hereof), and ought to recover the sum of Rs 8697/- (being principal Rs 6000/- and interest up to date of the plaint Rs 2697/-); and the said suit was filed, admitted and numbered as O.S. No. 24 of 1900-1901.

That the said Hotte Rungamah was made a supplemental Defendant (and as 3rd. Defendant) in the said suit (O.S. No. 24 of 1900-1901).

That in the said suit (O.S. No. 24 of 1900-1901) the Subordinate Judge of Mysore did, on the 17th. day of July 1901, pass a judgment, and held in Paragraph 19 of the said judgment as follows:-

"There will be a decree therefore in Plaintiff's
"favour for Rs 8697/- with costs, interest
"on Rs 6000/- at Rupees 1-8- per cent
"per mensem from the date of suit
"to date of decree, and further interest
"on Rs 8697/- and costs at 6 per
"cent per annum from the date
"of decree to the date of payment,
"against the assets of the Bank
"and the hypothecated properties
"of the Plaint Schedule."

That the Plaintiff's Bungalow, mortgaged under the Deed of Mortgage, bearing date the 26th. day of June 1896 (and referred to in Paragraph I above) is one of the hypothecated properties of the Plaint Schedule, and referred to in Paragraph 19 of the judgment (See Paragraph VI above).

That thereupon the 1st. Defendant (Sri Kalkere Narayanaswamy Company Limited by its Agent Putta Subaraya Chetty) appealed to the Chief Court of Mysore against the decree made in the said O.S. No. 24 of 1900-1901 (on the file of the Court of the Subordinate Judge of Mysore) - to wit in Regular Appeal No. 176 of 1901-1902 - on the 27th. day of January 1902.

That the Chief Court of Mysore passed

IX

judgment in the said Appeal on the 26th day of February 1904 and in their judgment their Honours the Judges (Chief Justice A. Ramachandra Iyer and Justice H. T. Nanjundiah) held as follows:—

"We are of opinion that the Plaintiff is "not entitled to one for the sale of the property "which had been hypothecated to 1st Defendant "by Defendants 3 to 7. 2nd Defendant is "not the transferee of the Bonds which had "been executed to 1st Defendant by De- "fendants 3 to 7; he was simply a Creditor "of the 1st Defendant, and got possession "of the Bonds only as security for repayment "of his loan.

"He is entitled to realize his debt by "selling the securities, but has no direct "claim against 1st Defendant's Debtors. A "person who buys the securities in a Court "sale will acquire the rights of the Bank to "sue the Debtors for moneys due upon their "Bonds.

"In modification of the Subordinate "Judge's decree we direct that the Plaintiff "be entitled to realize the judgment debt by "sale of the Bonds, which had been pledged "to 2nd Defendant under Exhibit A."

X That meanwhile, and before the Chief Court had disposed of the said Appeal, Chik Veeraya who had, soon after the passing of the judgment in the said O.S. No. 24 of 1900-1901, applied for execution of the decree made therein, to wit in Execution Case No. 490 of 1901-1902 on the file of the Court of the Subordinate Judge of Mysore.

XI That accordingly the Plaintiff's Bungalow was in such Execution Case attached and brought to sale, and the said Chik Veeraya who did on the 23rd day of September 1902 purchase the said Bungalow for the sum of Rs 10,400/-, and did on the 1st day of February 1903, obtain possession thereof, and has since then been, and now is, in possession thereof.

XII That by the said illegal judgment of the Subordinate Judge of Mysore the Plaintiff has been considerably damnified, in that the market value of the said Bungalow is Rs 25,000/-, has lost the rents and profits accruing from his said Bungalow, and has been subjected also in his status and reputation as a Merchant.

XIII That the Plaintiff therefore now seeks to recover possession of the said Bungalow (more fully and particularly described in the "Schedule" hereunder written) or the value thereof, Rs 25,000/-, as also for the recovery of the sum of Rs 5000/- as and by way of damages for the wrongful and illegal dispossession of the said Bungalow in consequence of the wrongful and illegal [illegible] by the Subordinate

—Judge—

Judge of Mysore in the proceedings of the said Executive Case No. 490 of 1901-1902 on the file of this Court, as also for an account and for the recovery of the rents and profits of the said Bungalow (and this sum is estimated will be about Rs 1126/- up to the end of April 1901, the rent of the said Bungalow being Rs 75/- per mensem), with all the costs of the suit.

XIV That the cause of action hereof accrued to the Plaintiff on the 26th day of February 1904 (the date of the Judgment in the said Regular Appeal No 176 of 1901-1902 on the file of the Chief Court of Mysore) in Mysore, and within the jurisdiction of the Court of the District Judge of Mysore, wherein the suit will be filed.

I beg to remain,
Sir,
Your most Obedient Servant,
Narasimha Aiyar &
Bramarambal
Counsel for Plaintiff
Hotte Rungannah.

The Schedule Above Referred To.

The House situate in Nazerbad Mohallah, in the City of Mysore, and bounded on the North by a House and grounds belonging to Hotte Rungannah, on the South by a House belonging to His Highness the Maharaja of Mysore, on the East and on the West by Government High Roads, bearing Municipal No. , and paying an annual assessment of Rs 60/- to the Mysore City Municipality.

Unless cause be shown within 15 days of the date hereof why such delay?

18/4/04

It does not appear to have been received in the Office here

21/4/04

18.4.04

Vakil for Plaintiff

21/4/04

(2)

To.

The Registrar
Chief Court,

Dated 23/4/04

No 2242

I Has the honour to request that he will be so good as to obtain and forward for reference the records in the cases noted in the margin, at an early date.

By order

23/4/04

For Secretary

1. O.S. No 24 of 1900-01 on the file of the Sub Judge of Rupar
2. Execution Case No 490 of 1901-02 on the file of the Sub Judge of Rupar.
3. Mis. No 158 of 1902-03 on the file of the Sub Judge Rupar
4. Regular Appeal No 176 of 1901-02 on the file of the Chief Court of Rupar.

Typed.
22/4/04

(3)

To.

The Govt Advocate
in Mysore

Dated 23rd April 04
No 2243 Jdl. 1

In forwarding herewith a copy of the notice sent by Mr William Hayes Barr. at-law, under the provisions of section 424 of the Civil Procedure Code, has the honour to request that the Govt Advocate will be so good as to ascertain by reference to the records of the cases quoted in the notice and report at an early date, whether there is a valid cause of

...ection against the
Govt of Mysore as
alleged by Mr Hazoor and to prepare the grounds upon which ~~to~~ submit
~~for the~~ to be heard
The ~~Secretariat~~ ~~have been~~ ~~sent~~ to find the
~~from the~~ Chief Commissioner
letter
records, which will
be required for the
purpose.

By order

22.4.11

for Secretary

Typed.
22/4/11

J.1639/26.4.04

No 6615/282 (Mundo)

Bangalore 26th April 1904.

4

To,

W. A. Rajaratna Mudaliar Esqre
Registrar Chief Court of
Mysore.

Sir,

I am directed by the Government of Mysore, General & Revenue Departments to forward herewith the marginally noted records, and to state that the records in Execution Case No. 490 of 1901-02 and Suit No. 158 of 1901-03 on the file of the Subordinate Judge of Mysore have been called for, and will be sent on receipt.

I have the honor to be,
Sir,
Your most Obedient Servant,

[illegible]
Registrar

1. Exn. Case No. 490 of 1901-02
2. Suit No. 158 of 1901-03
3. Regl. Appeal No. 176 of 1901-02
4. Civil Misc. No. 52 of 1901-02

} in the file of the Chief Court of Mysore.

(General Serial No. 30.)

2.1676
1903-04

~~180~~

From V. C. Rangacharlu Avoodeye
Registrar
Chief Court Mysore

To
Rao Bahadur Rao Sahib
Offg: Secretary to the
Government of Mysore
General & Rev: Depts.

Dated 6th May 1904.

Despatched

Received

Enclosures No. Record

General No. 6749
No. 284

Sir,

In Continuation of this office letter No. 6615/287 dated 26th April 1904, I have the honor to forward herewith, the records in Execution No: 490 of 1902 Mis: No: 158 of 1902-3, on the file of the Sub: Judge of Mysore.

I have the honor to be,
Sir,
Your most obedt. Servant,

Registrar

6

To.

The Government Advocate
in Mysore.

Dated 10.5.04
No 2374
J

In continuation of this office No 2243 dated 23rd April 1904, has the honour to forward herewith the records in the marginally noted Cases for reference and return with his opinion called for in the docket above referred to.

By order

7/5/04
Offg. Secretary

This was submitted to the Dewan on 7/5/04

1 O.S. No 24 of 1901-01
2 Ex. No 180 of 1901-02
3 Mis No 106 of 1901-02
4 Reg. Appeal No 1760 of 1901-02
5 Civil Petn No 52 of 1901-02
6 Execution No 490 of 1901-02
Mis No 158 of 1902-03

} on the file of the Sub Judge of Mysore

} on the file of the Chief Court of Mysore

on the file of the Sub Judge of Mysore.

No 209
Encl no: six.

J 1743

Office of the Government Advocate
in Mysore
19th July 1904

7

From

The Government Advocate
in Mysore.

To

The Officiating Secretary
to the Government of Mysore
General & Revenue Depts.

Sir,

In reply to your letter No.
2243 of 23rd April 1904, I have the honor
to state that in my opinion there is no
valid cause of action against the Govt.
of Mysore and the suit if filed will not
be sustainable on the following grounds,—

1. The allegations in the notice show no
cause of action against the Government
2. No suit lies against the Government
3. The allegations in the notice show no
valid cause of action against the Sub
Judge
4. No suit lies against the Sub Judge
for acts done by him bona fide
and in good faith.
5. The 3rd defendant Hatti Ranganna
who gives now the notice was no
party

party to the appeal and he did not raise in the Court of Sub Judge the point on which the Judgement of the Chief Court is based, nor did the 1st defendant raise that point in the Court of Sub Judge.

6. The Judgement of the Sub Judge is not illegal.

7. The plaintiff was not illegally and wrongfully dispossessed of the Bungalow in consequence of the wrongful and illegal acts of and orders by the Sub Judge.

8. The plaintiff could have avoided the Sale of the Bungalow by payment of the Judgement debt.

The Written Statement can be prepared only after the Suit is filed and it will be nearly to the same effect as above. The enclosures are herewith returned.

I have the honor
to be Sir,
Your most obedient Servant,

S Ramaswamy

Government Advocate
in Mysore

Draft of D.O.
to the Chief Justice.

8

Bangalore
– May 1904

My dear Sir,

I send herewith for your kind perusal a file of papers connected with a notice issued to me on the 15th April 1904 by Mr William Hayes, Barrister-at-Law, on behalf of one H.H. the Rangamma of Mysore, expressing his intention to file a suit against the Govt of Mysore (among other things) for damages ~~claimed~~ declared by ~~her~~ his client on account of certain alleged erroneous orders of the Subordinate Judge of Mysore.

My object in doing so is to call your attention to the fact that the notice

26.V.04

D.O. has been sent for attached from here — 28/5/04

has been given to [illegible]
without any substantial
ground or cause of action against them
whatever, and to ask
whether the conduct of an
Advocate of Mr Hayes'
standing and experience in
acting as irresponsibly as
he has done cannot be
suitably noticed by the
Chief Court.

Yours sincerely

[illegible]

14.5.14

[illegible]

9

14th June 1904.

Chief Court.

My dear Sir Krishna Murthi,

Your D.O.Letter dated 27th May was delivered to me last evening. From a letter which Mr. Hayes, Bar-at-Law wrote to the Registrar of the Chief Court on the 9th Instant, I gather that he is now in Bombay and that he wishes to be enrolled as an Advocate of the Bombay High Court. If he returns to Bangalore to resume his practice, the Court will consider whether any and what action should be taken against him under the Legal Practitioners'

:itioners' Regulation. I have
:ed the file of papers -
: was sent with your D.O. -
r. I will send for it again
:essary.

Yours Sincerely
A Ramachandra Iyer